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BY ECF
Hon. Cathy L. Waldor, U.S.M.J.
United States District Court for the District of New Jersey
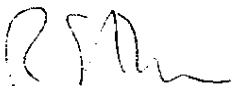King Federal Building & Courthouse
50 Walnut Street
Newark, New Jersey 07101

> Re: ***BanxCorp v. Bankrate, Inc.***, Civ. No. 07-3398 (ES-CLW)
>   ***BanxCorp v. LendingTree, LLC***, Civ. No. 10-2467 (ES-CLW)

Dear Judge Waldor:

I am writing in response to the letters submitted by counsel for BanxCorp seeking an order compelling Bankrate to produce its CEO, Thomas Evans, for a second day of deposition. BanxCorp does not dispute that it failed to use the time allotted on the day that Mr. Evans appeared for deposition; instead, it makes hysterical allegations of misconduct on the part of the witness and counsel, claiming, without a shred of substantiation, that more than half of Mr. Evans' deposition time was consumed by my speaking objections.

Norbert Mehl has admitted, piece by piece, that BanxCorp's claims in this case are all pure fiction, and BanxCorp's conduct in this instance is more of the same. While it makes hyperbolic accusations of misdeeds, BanxCorp has not identified a single concrete instance of any evasive answer given by the witness or improper objection that interfered with the deposition. The Court is well aware that it did not receive a single call from BanxCorp to complain about misconduct during Mr. Evans' deposition. If Mr. Evans and I frustrated the deposition so badly, why was there not a single call to the Court? BanxCorp's after the fact fabrication of alleged misconduct is a pretext to cover up its failure to properly use the time allowed under the rules. BanxCorp has no legitimate basis for extending Mr. Evans' deposition, and has offered none. We respectfully suggest that the Court cannot require additional deposition time based on this record.

Respectfully submitted,

R. Scott Thompson

Cc: All Counsel (ECF)

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